

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 1873.02  
 COMPLAINT INVESTIGATOR: Sandie Scudder  
 DATE OF COMPLAINT: February 8, 2002  
 DATE OF REPORT: March 8, 2002  
 REQUEST FOR RECONSIDERATION: no  
 DATE OF CLOSURE: May 16, 2002

**COMPLAINT ISSUES:**

Whether the Cloverdale Community Schools and the Old National Trail Special Services violated:

- 511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically:
  - a. failing to implement the behavioral intervention plan (BIP) as written; and
  - b. failing to allow the student to return to school full time.
- 511 IAC 7-27-2(c) and (d) and 511 IAC 7-17-3 by failing to provide the parent with adequate written notice of the case conference committee (CCC) meeting.
- 51 IAC 7-21-3 by failing to provide the student with an instructional day of the same length that is provided for students without disabilities who attend the same middle school.
- 511 IAC 7-27-4(c) by failing to utilize the CCC to make changes to the student's IEP/BIP, and making changes unilaterally.

**FINDINGS OF FACT:**

1. The Student is 14 years old, is in the 7<sup>th</sup> grade, and is eligible for special education and related services as a student with an emotional disability. On October 8, 2001, due to complex behavior problems, the Student's instructional day was reduced from a full day to 7:30 a.m. to 10:30 a.m. On February 25, 2002, the Student's instructional day was extended until 12:20 p.m.
2. The Student's original BIP is dated April 4, 2001, and consisted of increased restrictions for infractions of behavioral goals. On October 4, 2001, due to behavioral problems, the CCC determined that the Student's BIP would consist of a level system permitting the Student to earn points for complying with guidelines addressing 4 target behaviors. The CCC met on October 24, 2001, discussed the Student's improved behavior, altered the BIP to include 3 target behaviors, and adjusted the point system. On November 28, 2001, the CCC, due to continued progress, decided to increase the length of the Student's instructional day following the holiday vacation. Due to behavioral concerns, the CCC reconvened on January 23, 2002, to review the Student's BIP, and added two target behaviors previously included in the BIP bringing the total number of target behaviors to 5. On February 25, 2002, the CCC agreed that the Student was making progress with target behaviors, and altered the level system to revolve around 6 classroom rules for which the Student earned points for compliance.

3. Due to complex behavior problems, on October 4, 2001, the CCC determined the Student's least restrictive environment would be a reduced instructional day with the Student attending school from 7:30 to 10:30 a.m. The Student was placed on a level system to earn points for positive behavior that, in turn, would increase her instructional day. As the Student demonstrated compliance with behavior goals, the Student's instructional day was increased on October 24, and on November 28, 2001, to allow the Student to attend school until 12:00 p.m. On January 23, 2002, due to increased behavior problems, the CCC decreased the length of the Student's instructional day to 3 hours. On February 5, 2002, the Complainant signed a letter in agreement with the format of the Student's day and that a CCC meeting would be needed to formalize the BIP/level system. The CCC meeting occurred on February 25, 2002, and the level system was adjusted to allow the Student continued success earning points for compliance with behavior goals. The school psychologist reports that the Student is now attending school until 12:20 p.m. The Complainant signed the CCC Reports in agreement.
4. The Complainant states that the School did not always provide Case Conference Notification Letters before the case conferences. The School provided the Complainant with Case Conference notification Letters before the case conferences. The School provided the Complainant with Case Conference Notification Letters dated: September 25, 2001, for a scheduled case conference on October 2, 2002, which was postponed by the Complainant; October 2, 2001, for a rescheduled case conference on October 4, 2001; October 23, 2001, for a scheduled conference on October 24, 2001; November 27, 2001, for a scheduled case conference on November 28, 2001; January 22, 2002, for a scheduled case conference on January 23, 2002; and February 20, 2002, for a scheduled case conference on February 25, 2002. The School did not submit a copy of the Case Conference Notification Letter for the February 9, 2002, case conference.
5. The Complainant states that during the January 23, 2002, case conference, the Student's instructional day was reduced due to problem behaviors, and the School eliminated all of the Student's earned points up to that time. The School submitted BIP charts that documented the Student's daily progress with targeted behaviors, and the number of points earned each day from October 9, 2001, through February 21, 2002. The school psychologist reported that Student lost accumulated points due to the start of the trimester on February 21, 2002, which was also a starting over point for her BIP/level system. The IEP/BIP does not include a provision requiring the Student to restart the accumulation of points at the beginning of the new trimester or any other time period. The decision to impose this requirement was made unilaterally by the School without benefit of the CCC.

## CONCLUSIONS:

1. Finding of Fact #2 indicates that the Student's IEP was being implemented as written and that the BIP was adjusted during CCC meetings depending on the Student's behavioral concerns. Therefore, no violation of 511 IAC 7-27-7(a) is found.
2. Finding of Fact #3 establishes that the Student was placed on a reduced instructional day on October 4, 2001, due to behavior problems. The CCC agreed to a BIP that would allow the Student to earn points and advance through a level system; thereby, lengthening her instructional day by adding segments of time. As of February 25, 2002, the Student was attending school until 12:20 p.m. The Complainant signed the CCC Reports in agreement. Therefore, no violation of 511 IAC 7-27-7(a) is found.
3. Finding of Fact #4 establishes that the School provided the Complainant with Case Conference Notification Letters prior to the convening of the case conferences with the exception of February 9,

2001. However, the Complainant did not receive the notification letters in ample time to make provisions for attending the case conferences. Therefore, a violation of 511 IAC 7-27-2(c) and (d) and 511 IAC 7-17-3 is found.

4. Finding of Fact #5 indicates that the School removed accumulated points from the Student's BIP because of the start of a new trimester without benefit of the CCC. Therefore, a violation of 511 IAC 7-27-4(c) is found.

**The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

The Cloverdale Community Schools and the Old National Trail Special Services shall:

1. review and, if necessary, revise its current policies and procedures to ensure that a notice of a CCC meeting is provided to a parent "early enough to allow a change in time or location, to make arrangements to attend a meeting, or to allow a response prior to the proposed action." A copy of the procedures shall be submitted to the Division no later than April 15, 2002; and
2. send a written reminder to all staff responsible for providing CCC notices to parents that the notices must be provided "early enough to allow a change in time or location, to make arrangements to attend a meeting, or to allow a response prior to the proposed action." A copy of the memorandum shall be submitted to the division no later than April 15, 2002.

DATE REPORT COMPLETED: March 8, 2002